## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA ASHEVILLE DIVISION 1:08cv268

CLARK TRANSPORTATION, INC.,	)
Plaintiff,	)
Vs.	ORDER
ST. PAUL/TRAVELERS; and/or THE TRAVELERS INDEMNITY COMPANY; and/or TRAVELERS PROPERTY CASUALTY COMPANY,	) ) ) )
Defendants.	)

THIS MATTER is before the court on defendants' Motion to Dismiss (#5) and defendants' Motion to Withdraw Motion to Dismiss Without Prejudice and Extension of Time (#18). The court concurs in the decision of respective counsel to withdraw the motion without prejudice, inasmuch as the issue raised may well require discovery. The court greatly appreciates the efficient manner in which this issue was handled by all counsel and the professionalism therein shown.

## **ORDER**

## IT IS, THEREFORE, ORDERED that

- (1) defendants' Motion to Withdraw Motion to Dismiss Without Prejudice and Extension of Time (#18) is **ALLOWED**;
- (2) defendants' Motion to Dismiss (#5) is **WITHDRAWN** without prejudice as to defendants' reasserting such motion either in their Answer as an affirmative defense and/or upon a motion for summary

judgment; and

(3) defendants are allowed up to and inclusive of September 8, 2008, to file their Answer.

Signed: August 29, 2008

Dennis L. Howell

United States Magistrate Judge